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14 (*Subject to pro hac vice admission*)

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16 CHILDREN'S HEALTH DEFENSE

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 CHILDREN'S HEALTH DEFENSE,  
21 Plaintiff,  
22 v.  
23 FACEBOOK, INC., et al., ,  
24 Defendants.

Case No. 20-cv-05787-SI

**DECLARATION OF ROGER TEICH IN  
SUPPORT OF WITHDRAWAL OF  
CONSENT TO STIPULATION AND  
REQUEST FOR RULE 4(F)(3), 16(C)(2)  
ORDERS**

**DECLARATION OF ROGER I. TEICH**

I, Roger I. Teich, declare as follows:

1. I am a member of the State Bar of California and the Bar of the United States District Court for the Northern District of California. On August 17, 2020, I filed the verified Complaint in this civil action. This declaration is made in support of plaintiff's withdrawal of consent to Stipulations [Dkts. ##23-24], and requests for case management order (Fed. R. Civ. Pro. 16(c)) and order for substituted electronic service of defendants Mark Zuckerberg and Science Feedback (Fed. R. Civ. Pro. 4(f)(3).) If called as a witness, I could and would testify competently to the facts herein, except as to those matters stated on information and belief.

A. **Defects in Facebook Counsel's Declaration**

2. Both in our phone discussions and email communications on September 4 and 9, 2020, Mary S. Holland, general counsel for Children's Health Defense, and I conditioned our discussion regarding reciprocal 45-day extensions of defendants' response to the Complaint on three requests: (1) the four U.S. defendants file a unitary, if oversized, motion to dismiss, rather than four separate, but overlapping, briefs; (2) Facebook's counsel accept substituted electronic service on behalf of its separate client, Mark Zuckerberg, who is joined individually, and respond regarding substituted service on Science Feedback, a related French organization, and all U.S. defendants' counsel accept electronic service of the Court's assignment and case management orders [Dkts. ##14, 15]; (3) Facebook's counsel agree to meet and confer regarding ESI-retention protocols, and agree not to apply newly-amended

1 Section 3.2 of Facebook's Terms of Service to Plaintiff during this litigation since that  
2 amendment postdates the lawsuit, and its application would represent retaliatory misconduct  
3 and potential spoliation.  
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5 3. To date, Facebook's counsel has responded only that they will "get back to" us at  
6 some future indefinite time regarding these requests, and that a meet and confer regarding  
7 ESI-retention is "premature." I believe Paragraphs 3-5 of Facebook counsel's declaration are  
8 inaccurate in omitting these material facts. See Dkt. #24-1 at ¶¶3-5. Accordingly, plaintiff  
9 withdraws its consent to the Stipulations filed yesterday [Dkts. ##23, 2], while requesting that  
10 the Court adopt the same briefing schedule in a sua sponte order. Additionally, plaintiff  
11 requests an Order requiring that opposing lead counsel meet and confer concerning ESI-  
12 retention protocols, and the application or non-application of amended Section 3.2 of  
13 Facebook's Terms to plaintiff within five-days of issuance of the Order.  
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18 **B. Substituted Electronic Service on Defendant Zuckerberg**  
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20 4. On information and belief, on or about August 19, 2020, plaintiff attempted  
21 service on defendant Zuckerberg by leaving a copy of the Summons and Complaint and  
22 related documents with security personnel at Facebook's corporate headquarters within this  
23 district. Zuckerberg's counsel has reserved the right to challenge defects in this service. [Dkt.  
24 #23 at 1 n.1; Dkt. #24 at 1 n.1.] Zuckerberg's counsel refused to accept substituted electronic  
25 service, even of this Court's assignment and case management orders, writing vaguely that he  
26 would "get back to us."  
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1           5.     I previously received an estimate from a San Francisco-based private investigator  
2     that effecting personal service on Zuckerberg himself would likely cost tens of thousands of  
3     dollars because, inter alia, “he owns numerous, well-fortified compounds and islands around  
4     the US/world and is cautious to the point that some would call him ‘paranoid.’ He likely has a  
5     large security detail surrounding him at all times. Serving him personally will require  
6     surveillance with multiple operatives on multiple fronts and state lines and will likely cost  
7     tens of thousands of dollars, if not more’  
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12           **C. Substituted Electronic Service on Defendant Science Feedback**

13           6.     Plaintiff’s foreign process agent has identified defendant Science Feedback’s  
14     current address as 16 rue Furtado Heine, 75014 Paris, France, and Emmanuel Vincent as its  
15     Founder and Director. On information and belief, neither the organization nor its director  
16     maintains a publicly-available email address, and plaintiff’s foreign process agent cannot  
17     establish without surveillance whether anyone is physically present at that address to accept  
18     the documents. Facebook counsel have not agreed to accept electronic substituted service on  
19     Science Feedback of the English and French-translated Summons and Complaint and related  
20     documents. Indeed, Facebook’s counsel purported not to know who or what Science Feedback  
21     is, notwithstanding its contractual privity with Facebook, and its coordinated role in the  
22     actions and events which give rise to the case. In subsequent emails, Facebook’s counsel has  
23     not addressed the issue or revised its position.  
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1 I declare under penalty of perjury under the laws of the United States that the foregoing  
2 is true and correct to the best of my knowledge and that this declaration was executed in  
3 Elk, California on September 10, 2020.  
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7 ROGER I. TEICH

8 Counsel for Plaintiff  
9 Children's Health Defense  
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